

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BARBARA TAYLOR, *et al.*
Plaintiffs,
v.
U.S POSTAL SERVICE,
Defendant.

Case No. 1:22-cv-01362-CDB
SCEDULING ORDER (Fed. R. Civ. P. 16)

Discovery Deadlines:
Non-Expert Cut-Off: Sept. 18, 2023
Expert Disclosure: Oct. 2, 2023
Supp. Expert Disclosure: Nov. 3, 2023
Expert Cut-Off: Dec. 1, 2023
Mid-Discovery Status Conf.: July 19, 2023

Non-Dispositive Motion Deadlines:
Filing: Nov. 17, 2023
Hearing: Jan. 5, 2024, at 10:30 a.m.

Dispositive Motion Deadlines:
Filing: Jan. 5, 2024
Hearing: Feb. 15, 2024, at 10:30 a.m.

Pre-Trial Conference: Mar. 15, 2024, at 10:30 a.m.
510 19th Street, Bakersfield

Trial: May 28, 2024, at 8:30 a.m.
510 19th Street, Bakersfield
Bench trial: 2-3 days

In this action removed from Kern County Superior Court on October 24, 2022, Plaintiffs Barbara Taylor and Donell Davis (“Plaintiffs”) assert a claim of negligence against Defendant the U.S.

1 Postal Service (“Defendant”). The Court held a scheduling conference on March 28, 2023. Mark
2 Vogt appeared on behalf of Plaintiffs; Brodie MacLeod Butland appeared on behalf of Defendant.

3 **I. Pleading Amendment Deadline**

4 Any amended pleadings shall be filed on or before **April 14, 2023**.

5 **II. Fictitiously-Named Defendants**

6 All claims as to “Doe” Defendants, including any counterclaims and cross-claims, are hereby
7 **Dismissed**.

8 **III. Discovery Plan and Cut-Off Date**

9 The parties are ordered to complete all discovery pertaining to non-experts on or before
10 **September 18, 2023**, and all discovery pertaining to experts on or before **December 1, 2023**.

11 The parties are directed to disclose all expert witnesses, in writing, on or before **October 2, 2023**, and to disclose all rebuttal experts on or before **November 3, 2023**. The written designation of
12 retained and non-retained experts shall be made pursuant to Fed. R. Civ. P. Rule 26(a)(2), (A), (B),
13 and (C) and shall include all information required thereunder. Failure to designate experts in
14 compliance with this order may result in the Court excluding the testimony or other evidence offered
15 through such experts that are not disclosed pursuant to this order.

16 The provisions of Fed. R. Civ. P. 26(b)(4) and (5) shall apply to all discovery relating to
17 experts and their opinions. Experts must be fully prepared to be examined on all subjects and opinions
18 included in the designation. Failure to comply may result in the imposition of sanctions, which may
19 include striking the expert designation and preclusion of expert testimony.

20 The provisions of Fed. R. Civ. P. 26(e) regarding a party’s duty to timely supplement
21 disclosures and responses to discovery requests will be strictly enforced.

22 A mid-discovery status conference is scheduled for **July 19, 2023**, at 10:00 a.m. before
23 Magistrate Judge Christopher D. Baker. Counsel SHALL file a joint mid-discovery status conference
24 report no later than **one week before the conference**. Counsel also SHALL lodge the status report via
25 e-mail to CDBorders@caed.uscourts.gov. The status report SHALL outline the discovery counsel
26 have completed and that which needs to be completed as well as any impediments to completing the
27 discovery within the deadlines set forth in this order. Counsel SHALL discuss settlement and certify
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1 in the joint status report (1) that they have met/conferred regarding settlement, and (2) proposed dates
2 for convening a settlement conference with an unassigned magistrate judge.

3 **IV. Pre-Trial Motion Schedule**

4 All non-dispositive pre-trial motions, including any discovery motions, shall be filed no later
5 than **November 17, 2023**,¹ and heard on or before **January 5, 2024**. The Court hears non-dispositive
6 motions at 10:30 a.m. at the United States District Courthouse, 510 19th Street, Bakersfield, California.

7 No motion to amend or stipulation to amend the case schedule will be entertained unless it is
8 filed at least one week before the first deadline the parties wish to extend. Likewise, no written
9 discovery motions shall be filed without the prior approval of the Court. A party with a discovery
10 dispute must first confer with the opposing party in a good faith effort to resolve by agreement the
11 issues in dispute. If that good faith effort is unsuccessful, the moving party promptly shall seek a
12 telephonic hearing with all involved parties and Magistrate Judge Baker. To schedule this telephonic
13 hearing, the parties are ordered to contact the Courtroom Deputy Clerk, Susan Hall, at (661) 326-6620
14 or via email at SHall@caed.uscourts.gov. At least three days before the conference, counsel SHALL
15 file informal letter briefs detailing their positions. The briefs may not exceed 7 pages, excluding
16 exhibits. Counsel must comply with Local Rule 251 with respect to discovery disputes.

17 All dispositive pre-trial motions shall be filed no later than **January 5, 2024**, and heard on or
18 before **February 15, 2024**. Motions are heard before Magistrate Judge Baker at 10:30 a.m., at the
19 United States District Courthouse, Bakersfield, California.

20 **V. Motions for Summary Judgment or Summary Adjudication**

21 At least 21 days before filing a motion for summary judgment or motion for summary
22 adjudication, the parties SHALL meet, in person or by telephone, to confer about the issues to be
23 raised in the motion.

24 The purpose of the meeting shall be to: 1) avoid filing motions for summary judgment where a
25 question of fact exists; 2) determine whether the respondent agrees that the motion has merit in whole

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¹ Non-dispositive motions related to non-expert discovery SHALL be filed within a reasonable time of discovery of the dispute, but in no event later than 30 days after the expiration of the non-expert discovery deadline.

1 or in part; 3) discuss whether issues can be resolved without the necessity of briefing; 4) narrow the
2 issues for review by the court; 5) explore the possibility of settlement before the parties incur the
3 expense of briefing a motion; and 6) to develop a joint statement of undisputed facts.

4 The moving party SHALL initiate the meeting and SHALL provide a complete, proposed
5 statement of undisputed facts **at least five days before** the conference. The finalized joint statement
6 of undisputed facts SHALL include all facts that the parties agree, for purposes of the motion, may be
7 deemed true. In addition to the requirements of Local Rule 260, the moving party shall file the joint
8 statement of undisputed facts.

9 In the notice of motion, the moving party SHALL certify that the parties have met and
10 conferred as ordered above, or set forth a statement of good cause for the failure to meet and confer.
11 Failure to comply may result in the motion being stricken.

12 **VI. Pre-Trial Conference**

13 **March 15, 2024**, at 10:30 a.m., located at the United States District Courthouse, Bakersfield,
14 California, before Magistrate Judge Baker.

15 The parties are ordered to file a Joint Pretrial Statement pursuant to Local Rule 281(a)(2). The
16 parties are further directed to submit a digital copy of their pretrial statement in Word format, directly
17 to Magistrate Judge Baker's chambers, by email at CDBorders@caed.uscourts.gov.

18 Counsels' attention is directed to Rules 281 and 282 of the Local Rules for the Eastern District
19 of California, as to the obligations of counsel in preparing for the pre-trial conference. The Court will
20 insist upon strict compliance with those rules. In addition to the matters set forth in the Local Rules,
21 the Joint Pretrial Statement shall include a Joint Statement of the case.

22 **VII. Trial Date**

23 **May 28, 2024**, at 8:30 a.m., located at the United States District Courthouse, Bakersfield,
24 California, before Magistrate Judge Baker.

25 A. This is a bench trial.²

27 ² Although Plaintiffs' first amended complaint includes a demand for jury trial, the parties'
28 more recently filed joint scheduling report reflects consensus to proceed by bench trial. See Doc. 15 at
¶ 10.

1 B. Counsels' Estimate of Trial Time: 2-3 days.
2 C. Counsels' attention is directed to Local Rules of Practice for the Eastern District of
3 California, Rule 285.

4 **VIII. Settlement Conference**

5 The parties SHALL meet and confer and notify the Court prior to the Pre-Trial Conference
6 whether they wish to convene a Settlement Conference. In the event the parties request a Settlement
7 Conference, unless otherwise permitted in advance by the Court, the attorneys who will try the case
8 shall appear at the settlement conference **with the parties** and the person or persons having full
9 authority to negotiate and settle the case on any terms³ at the conference. Consideration of settlement
10 is a serious matter that requires preparation prior to the settlement conference. Set forth below are the
11 procedures the Court will employ, absent good cause, in conducting the conference.

12 At least twenty-one days before the settlement conference, Plaintiff SHALL submit to
13 Defendant via fax or e-mail, a written itemization of damages and a meaningful⁴ settlement demand
14 which includes a brief explanation of why such a settlement is appropriate. Thereafter, no later than
15 fourteen days before the settlement conference, Defendant SHALL respond, via fax or e-mail, with an
16 acceptance of the offer or with a meaningful counteroffer which includes a brief explanation of why
17 such a settlement is appropriate.

18 If settlement is not achieved, each party SHALL attach copies of their settlement offers to their
19 Confidential Settlement Conference Statement, as described below. Copies of these documents shall
20 not be filed on the court docket.

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³ Insurance carriers, business organizations, and governmental bodies or agencies whose
23 settlement agreements are subject to approval by legislative bodies, executive committees, boards of
24 directors or the like shall be represented by a person or persons who occupy high executive positions in
25 the party organization and who will be directly involved in the process of approval of any settlement
offers or agreements. To the extent possible, the representative shall have authority, if he or she deems
it appropriate, to settle the action on terms consistent with the opposing party's most recent demand.

26 ⁴ "Meaningful" means the offer is reasonably calculated to settle the case on terms acceptable to
27 the offering party. "Meaningful" does not include an offer which the offering party knows will not be
28 acceptable to the other party. If, however, the offering party is only willing to offer a settlement which
it knows the other party will not accept, this should trigger a recognition the case is not in a settlement
posture and the parties should confer about continuing or vacating the settlement conference via
stipulation.

1 **CONFIDENTIAL SETTLEMENT CONFERENCE STATEMENT**

2 At least five court days prior to the settlement conference, the parties shall submit, directly to
3 Magistrate Judge Baker's chambers by e-mail to CDBOrders@caed.uscourts.gov, a Confidential
4 Settlement Conference Statement. The statement should not be filed with the Clerk of the Court nor
5 served on any other party, although the parties may file a Notice of Lodging of Settlement Conference
6 Statement. Each statement shall be clearly marked "confidential" with the date and time of the
7 settlement conference indicated prominently thereon.

8 The Confidential Settlement Conference Statement shall include the following:

9 A. A brief statement of the facts of the case.
10 B. A brief statement of the claims and defenses, i.e., statutory or other grounds upon
11 which the claims are founded; a forthright evaluation of the parties' likelihood of prevailing on the
12 claims and defenses; and a description of the major issues in dispute.
13 C. A summary of the proceedings to date.
14 D. An estimate of the cost and time to be expended for further discovery, pretrial and trial.
15 E. The relief sought.
16 F. The party's position on settlement, including present demands and offers and a history
17 of past settlement discussions, offers and demands.

18 **IX. Request for Bifurcation, Appointment of Special Master, or other Techniques to Shorten**
19 **Trial**

20 Not applicable at this time.

21 **X. Related Matters Pending**

22 There are no pending related matters.

23 **XI. Compliance with Federal Procedure**

24 All counsel are expected to familiarize themselves with the Federal Rules of Civil Procedure
25 and the Local Rules of the Eastern District of California, and to keep abreast of any amendments
26 thereto. The Court requires compliance with these Rules to efficiently handle its increasing case load.

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1 **XII. Effect of this Order**

2 The foregoing order represents the best estimate of the court and counsel as to the agenda most
3 suitable to dispose of this case. The trial date reserved is specifically reserved for this case. If the
4 parties determine at any time that the schedule outlined in this order cannot be met, counsel are
5 ordered to notify the court immediately of that fact so that adjustments may be made, either by
6 stipulation or by subsequent status conference.

7 **The dates set in this Order are considered to be firm and will not be modified absent a**
8 **showing of good cause even if the request to modify is made by stipulation. Stipulations**
9 **extending the deadlines contained herein will not be considered unless they are accompanied by**
10 **affidavits or declarations, and where appropriate attached exhibits, which establish good cause**
11 **for granting the relief requested.**

12 Failure to comply with this order may result in the imposition of sanctions.
13 IT IS SO ORDERED.

14 Dated: March 28, 2023


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UNITED STATES MAGISTRATE JUDGE

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